

Village Council  
May 4, 2009  
6:30 PM

Minutes  
Public Hearing

Call to Order: Mr. Deeds called the meeting to order.

Roll Call: John Bender, Rick Deeds, Bruce Jarvis, Bobbie Mershon, Victor Paini, Marilyn Rush-Ekelberry, Leah Turner (left at 7:05pm)

\*\* Mr. Jarvis left his role as Council member at this time and will participate as a resident and part of the general public. He is under advisement that he will be unable to vote at the time when this comes before Council.

Purpose of the Public Hearing: To hear public comments on the Appeal filed by Trevco Development Ltd. and Fairfield Homes, Inc. Fairfield Homes Inc. was seeking Approval of Variances (Va-09-03) for a 40 unit senior housing apartment development on 2.526 acres of undeveloped land that is zoned Multi-family residential (AR-1) which was denied by the Planning and Zoning Commission on April 13, 2009.

Presentation to Council:

**Staff Report:** Allan Neimayer

Mr. Neimayer presented a power point presentation showing the land in question and the proposed changes. See attached. This property was changed from General Commercial to AR-1 in 1990 and has remained AR-1 since. The density proposed is 6 units per acre; 12 units per building. Mr. Neimayer showed David's Way Project as a comparable building.

Zoning code section 1181.04(a) requires 20% open space. The proposed green space including the play area, patio area and landscaped entrance total only 16%.

Information that the applicant had provided supporting the variances was presented.

Staff recommendations were to grant the variances. The Planning and Zoning Commission defeated the motion for granting the variances.

**Bill Christensen** – of the Planning and Zoning Commission

Mr. Christensen stated that the main reason for the defeat was that it was not the right location, an in-fill project, to allow increased density within the Village.

Mr. Deeds asked what would be appropriate in that location. Mr. Christensen stated that given the AR-1 zoning, a condo project with the garages in the rear, like the houses in the area, and a common area would fit in with the surrounding area.

Mrs. Turner asked if a restriction as to who can occupy the building can be placed on condos in the same manner in which it is placed on a senior building. She also stated her concern that the wording on the senior occupancy restriction is “should ensure that the housing remain senior housing” instead of “will ensure”. Mr. Strayer stated that the applicant can better answer that question. Mr. Hollins stated it may be enforceable through deed restrictions.

Mrs. Rush-Ekelberry took issue with the amount of parking available for the senior residents, let alone any visitors they may have.

**Jim Knowlton**, of Planning and Zoning Commission, stated that he was the lone “yes” vote for the variance. He stated that this is a difficult piece of property that has issues with access and that this is an opportunity to put a very attractive building in an empty spot that will have a minimum impact on our schools and traffic. It will go to 55 and over only, with the average tenant being a 76 year-old woman that will not be driving in rush hour and adding to the traffic issues. It will not be bringing more children into the area and into a school district that is already over-crowded. It is a worthwhile project and should be brought into the community.

Dr. Bender asked what this project would do to the property values of the homes in the surrounding area. Mr. Knowlton stated that he couldn’t imagine that it would bring the values down. It is a beautiful building and would be better to look at than the junk cars around Bolenbaugh’s.

**Applicant:** Ray R. Michalski of Dagger Johnston Miller Ogilvie &  
Hampson LLP Attorneys for the Applicant

**Mr. Michalski** stated that the variances are provided to allow a use that is not otherwise allowed in the zoning or an area variance, such as this one. This means that there are some practical difficulties in dealing with the requirements of the code. The variance requests are for an increase in density, reduction in the size of the bedrooms in the buildings and a reduction of green/open space by only 4%. None of those have to do with the size of that building.

They are trying to make sure that the type of housing that is going in here is consistent with the Village's plans.

When the property was originally rezoned into AR-1, it was probably to buffer all the residential area from the general commercial area. The project that is being proposed is already permitted in this area. The only thing that is being done by allowing this density change is to allow the funding be made available to make this a very attractive project for the area.

Senior housing will be an important part of communities all over the state. Mr. Michalski spoke regarding compliance with the strict housing laws so as to not be in violation of the Fair Housing Act by restricting residents to only 55 and over.

Village Resident Comments:

(Five Minute Limit per Person)

**Jeffrey Bond**, of 146 Washington Street Apt #C, stated that we hear this all the time... "let's help the developer out. There's no impact on the schools." What we're really saying is that we can't build the right property on there because they can't make a business model work. They'd have to have too many people in there to pay for it. What we are saying in the short term is that this isn't the right project, but since they don't have deep pockets, it's the only business model that will work.

Saying that the typical resident is 76 years old, the mortality rate is 78 years, so that 76 year old isn't going to live there more than two years and then they are going to die. I am the new generation. I will be able to go in there in two years. My generation is the tail end of the hippies and is active. That'll be the people going in there. I was the first yuppie in this town. That means I have a high end radio and I play it loud. I have a high-end car and a motorcycle and a bike. That's the kind of people that will be living there. I'm the new "50's".

When you really get down to it, the generation before me was the hippies. When you pull up my high school, 95% of them did drugs. Quite a few of them still do. That's the way it is. That's my generation. Take it or leave it. It's the honest facts. They planted student narcs in my high school class and arrested 88 kids out of 235 for dealing drugs. My senior year we had a class countdown calendar and when the kids got out of school, they graduated. These are the kind of people that are going to live there. This is my generation.

Getting back to the other issues...it's a white elephant. It's a property that remains idle until the right development and usage comes. In closing, we've been down the road before. P&Z has made their stand. We've had so many meetings in the past about backing them on the stands that they make. I would be disillusioned. It's an ugly situation, but the only recourse we have as people when you displease us is to run re-competition on you.

**Bob Rodenbaugh**, of 37 E Mound St, stated that P&Z voted 4-1 against this. He trusts their judgment. He asked who here is in favor of the project to raise their hands. No response was heard on the tape.

**Scott Huff**, of 72 E Waterloo St., the traffic count will rise when people are coming in and out of the area. He pointed to a map and addressed traffic issues. This is in the flood plain. Are you going to put a lot of people in the flood plain? You would have to evacuate people. How would you go about it? You set rules for a reason; you shouldn't change rules for one single applicant. It is not a proper location for this.

Mr. Deeds asked what would be a proper use for the land. Mr. Huff stated that the best thing for the community would be a park that could be used for Farmer's Market on the weekends. Maybe baseball diamonds, shuffle board courts, soccer field, ball courts. Hours would be limited and traffic would be limited in the area.

By the way, Easter Sunday is not a good day to take a traffic count. Most likely, the residents were picked up and taken to other family homes.

**Robert Stedman**, of 18 E Mound St, stated that there would be great impact on the surrounding residents during construction. They would lose power. This would lose the historic nature of the downtown area. They could try to duplicate the character, but you will never match it.

The density variance is unreasonable. They are trying to squeeze too many people in to too small of a space. Tearing down an 80 year old house when others have to adhere to very strict guidelines for preservation doesn't make sense. I would like Council to enact emergency legislation to change the area to Historic Area because it is completely surrounded by homes that have to adhere to that.

I have lived in Canal Winchester my whole life and now realize why nothing was built there. Nothing makes sense. It is too small of an area. This is supposed to be a Main Street Community. This doesn't fit with the green space needed for Main Street feel.

**Brian Snode**, of 24 N Trine St, stated that he moved to Canal Winchester because he was looking for a place for his children to go to school. In CW, he found a sense of community, good neighbors & good feelings. The field in the rear of his house was a great draw for him to move there. He is in business and knew that they wouldn't be able to build anything there.

Some investments take longer than others to see return. The density on this is trying to get a quick return on a quick buck. David's Way is not a comparable project. It is surrounded by train tracks and woods. This project is street locked with homes all around it. He is strictly opposed to this.

**Lowell Morris**, of 43 E Mound St, stated that there is no way that this would not clog up the traffic. The green space is currently used by the residents and towns people. It is used as overflow area for parking on event weekends. There are gardens. Children play in it. The loss of green space would not be a favorable thing to this town.

**Tim Householder**, of 20 N Trine St., stated that he has lived in CW his whole life. This will increase the traffic and would impact the safety of his children that play in the area. That land takes much water. Where will the water go when the building displaces it? Into other people's basements?

**Michael Feeny**, of 34 N Trine, reiterated the previous comments. The beautiful building doesn't belong there. It would be beautiful on Groveport Road by the Rec. Center, but not tucked back in our little town. What will the impact be on Village services when 40 units of senior housing are filled? Can the Community Center serve that many people? What about the senior transportation?

**Bruce Jarvis**, of 42 E Waterloo, stated that he understands and appreciates the concerns of the neighbors, but given that it is zoned multi-family, he is personally not opposed to senior housing back there. His issue is that it has to meet the current zoning standards. While he believes that Fairfield Homes is a reputable company and has made a good-faith effort to fit into the neighborhood, the scale and the density (which is almost triple what the baseline is) make this thoroughly unreasonable.

David's Way has been presented to you as comparable in density so they can make a case of precedence. There is actually very little in common between the two other than seniors and multiple units. David's Way is bounded by Groveport Pike to the south, RR tracks to the North, David Lutheran to the west and 9 homes to the east. There is no road access going beside or directly behind those houses. In contrast, Francis Park is locked, bound on three sides by residential.

The math used to calculate the density of David's way 18.3 units / acre doesn't take into account the 5 acres of woodland. When that is put back into the mix, the density goes down to 11.24 units / acre. If similar logic is used, for Francis Park and the 3 acre park is taken out, their density goes up to 19.35 units / acre. By denying this appeal, nobody is denying a property owners right to develop a property in accordance with documented zoning standards. The Village of Canal Winchester is already facing litigation over Canal Crossing Development and I personally wonder if the variances here will undermine the Village's stance through the appearance of preferential treatment.

While it is the owner's prerogative, I personally think it is tragic to tear down a century old house that this housing two businesses and a family right now to create an entrance feature.

I commend P&Z for making a sound decision and request that council will also do the right thing.

Variances should be granted when the benefit is perceived to outweigh the compromise. We've had a lot of one-sided rationale to justify the project. It is difficult to understand why this would be in the Village's best interest. Why is staff making a formal recommendation for Council to overturn Planning and Zoning in the absence of such benefit?

Council Comments/Questions:

Dr. Bender asked for a response from Mr. Michalski.

**Mr. Michalski** reminded people that this is private property, though the neighbors seem to have acquired some type of ownership in their own mind. Trev-cor has property rights and its right is to develop the land within the letter of the law. The senior housing buyer/developer is not the only person wanting to build on this land. There is another buyer waiting in the wings. This other building could have the correct density (only 14 units) but it would be unrestricted to senior residency. It could be 2- 2 ½ stories tall under the law. So, first and foremost, the likelihood of this lot staying vacant is zero.

No one is going to allow a building to be built that will cause flooding to neighbors. Development of the property will occur and there will be a limited time of construction traffic and noise. This is not a quick buck situation. The management has several different properties around the state. They are committed to these projects.

Mr. Michalski reiterated the statistics from his earlier presentation. It is not subsidized, but there is an income qualifier. 40% of the units have to be at 55% or less than the average income of the residents of Canal Winchester.

**Mr. Pains** commented that it's disheartening to hear resident's thoughts and fears discredited and thinly veiled threats thrown out there. He hasn't made up his mind yet, but he was disappointed with the choice of words from the attorney. Also, for the most part the residents let Council govern in the way that they see fit. But, when there is an issue that they see issue with, they come out in force, and apartments have been one of those issues. When people come out in force, it makes us listen up and want to do what we can to support those folks.

**Mr. Michalski** rebutted and apologized for his choice of words. He didn't discredit opinions; he simply presented the other side of the story. He didn't want anyone to believe he was putting out thinly veiled threats. As to the property staying vacant, the only way that could happen would be to appropriate the property and compensate the owner.

**Chris Collins**, director of development for Fairfield Homes, wanted to make some clarifications about the project. She went out and took pictures down the street to better show what it would look like when it was integrated into the community.

The project in Lancaster is 40 units with 7 two bedrooms and is fully leased. This one will have 10 two-bedrooms. If the funding is received, construction wouldn't start for one year. It really will look like a two story house and will fit into the area well.

**Ms. Osborn** presented written communication to the Council received from Dave Holbrook, of 56 E Mound St., and Kelly Selzer, of 40 N. Trine St., in opposition to the project.

**Dr. Bender** stated that he feels conflicted by this decision. He hears from residents that live around the area and yet he sees the plans and they look nice. Maybe there are too many units. He needs to think more about it. It may be a really good thing for the Village of Canal Winchester. He expressed his appreciation for community input.

#### Adjournment

Dr. Bender moved to adjourn the hearing; Mrs. Mershon seconded the motion.

**VOTE:**

**AYES**

Dr. Bender, Mr. Paini, Mrs. Mershon  
Mr. Deeds, Mrs. Rush-Ekelberry

**NAYS**

Mr. Jarvis and Mrs. Turner were absent .

Motion carried. Time out ... 7:53pm